

Introduced by Senator Huff

April 5, 2011

Senate Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of, and by repealing and adding Sections 2 and 3 of, Article VII thereof, relating to state employment.

LEGISLATIVE COUNSEL'S DIGEST

SCA 11, as introduced, Huff. State employment.

The California Constitution establishes the civil service and provides that the civil service includes every officer and employee of the state, except as otherwise provided. The California Constitution requires that, in the civil service, permanent appointment and promotion be based on merit ascertained by competitive examination. The California Constitution also establishes the State Personnel Board, as specified, to enforce the civil service statutes, prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

This measure would provide that nothing in the provision establishing the civil service shall be construed to limit, restrict, or prohibit the state from contracting with private entities for the performance of personal services, and would authorize the state to enter into a personal services contract with a private entity upon approval of the contract by the Office of Economic Growth. The measure would establish the Office of Economic Growth as an independent office in state government, consisting of an unspecified number of public and private sector members appointed by the Governor and the Legislature, as specified. The office would be responsible for approving personal services contracts proposed by the state and auditing those contracts to ensure

compliance with their terms, and would be required to establish criteria for the letting of personal services contracts that provide for the most efficient and cost-effective delivery of state services. The measure would require the office to submit proposed contracts for public safety personal services to the Legislature for review and consideration, and would provide that a proposed contract shall be deemed approved 60 calendar days after it is received by the Legislature unless it is expressly rejected by resolution adopted by a majority of the membership of either house.

This measure would delete the reference to permanent civil service appointments and would instead provide that civil service appointments may be terminated at the will of either the appointing agency or the employee. The measure would require that all civil service examinations be open to any member of the public who meets the minimum qualifications for the position, as specified. The measure would delete the provisions creating the State Personnel Board and would instead require that civil service statutes be enforced by a personnel agency under the authority of the Governor. The measure would require this agency to create and submit to the Legislature a comprehensive plan for the state workforce in order to provide for the efficient and cost-effective delivery of governmental services and the future workforce needs of the state, and would require the agency to administratively implement the plan unless expressly rejected by resolution of either house of the Legislature. The measure would require the Office of Economic Growth to review the plan annually and submit to the Legislature any recommended revisions to the plan, and would require the agency to administratively implement those revisions unless expressly rejected by either house of the Legislature.

The measure would provide that its provisions shall be self-executing, but would authorize the Legislature to enact the statutes to implement these provisions by a $\frac{2}{3}$ vote of the membership of each house, if the statutes further the purpose of these provisions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2011–12 Regular
- 3 Session commencing on the sixth day of December 2010,
- 4 two-thirds of the membership of each house concurring, hereby

1 proposes to the people of the State of California that the
2 Constitution of the State be amended as follows:

3 First—That Section 1 of Article VII thereof is amended to read:

4 SECTION 1. (a) The civil service includes every officer and
5 employee of the State except as otherwise provided in this
6 Constitution.

7 (b) In the civil service ~~permanent~~, appointment and promotion
8 shall be made under a general system based on merit ascertained
9 by competitive examination. *All civil service examinations shall*
10 *be open to any member of the public who meets the minimum*
11 *qualifications for the position, which shall not require prior state*
12 *service.*

13 (c) *Civil service appointments may be terminated at the will of*
14 *either the appointing agency or the employee.*

15 (d) *Nothing in this section shall be construed to limit, restrict,*
16 *or prohibit the State from contracting with private entities for the*
17 *performance of personal services.*

18 Second—That Section 2 of Article VII thereof is repealed.

19 ~~SEC. 2. (a) There is a Personnel Board of 5 members appointed~~
20 ~~by the Governor and approved by the Senate, a majority of the~~
21 ~~membership concurring, for 10-year terms and until their~~
22 ~~successors are appointed and qualified. Appointment to fill a~~
23 ~~vacancy is for the unexpired portion of the term. A member may~~
24 ~~be removed by concurrent resolution adopted by each house,~~
25 ~~two-thirds of the membership of each house concurring.~~

26 ~~(b) The board annually shall elect one of its members as~~
27 ~~presiding officer.~~

28 ~~(c) The board shall appoint and prescribe compensation for an~~
29 ~~executive officer who shall be a member of the civil service but~~
30 ~~not a member of the board.~~

31 Third—That Section 2 is added to Article VII thereof, to read:

32 SEC. 2. (a) It is the intent of the people to encourage
33 competition between the civil service and private entities in order
34 to increase the efficiency and quality of government services.

35 (b) There is in state government an independent Office of
36 Economic Growth consisting of __ members appointed by the
37 Governor and the Legislature, as follows:

38 (1) __ appointees of the Governor.

39 (2) __ appointees of the President pro Tempore of the Senate.

1 (3) ___ appointees of the leader of the largest minority party in
2 the Senate.

3 (4) ___ appointees of the Speaker of the Assembly.

4 (5) ___ appointees of the leader of the largest minority party in
5 the Assembly.

6 (c) Appointments to the office shall be geographically diverse
7 in order to represent all regions of the State. Appointees shall
8 include state officers or employees and members of the private
9 sector representing the various aspects of the state's economy,
10 including, but not limited to, manufacturing, technology,
11 agriculture, services, labor, and education.

12 (d) The office shall establish criteria for the letting of personal
13 services contracts that provide for the most efficient and
14 cost-effective delivery of state services. The office shall be
15 responsible for approving personal services contracts proposed by
16 the State and auditing those contracts to ensure compliance with
17 their terms.

18 (e) An appointing agency of the State may enter into a contract
19 with a private entity for the performance of personal services only
20 upon the approval of the contract by the office.

21 (f) Prior to approving a contract with a private entity for the
22 performance of public safety personal services pursuant to
23 subdivision (e), the office shall submit the proposed contract to
24 the Legislature for review and consideration. The proposed contract
25 shall be deemed approved by the Legislature 60 calendar days
26 after it is received by the Legislature, unless it is expressly rejected
27 during that period by resolution adopted by either house, a majority
28 of the membership concurring; provided that if that 60-day period
29 ends during a recess of the Legislature, the period shall be extended
30 until the sixth day following the day on which the Legislature
31 reconvenes.

32 Fourth—That Section 3 of Article VII thereof is repealed.

33 ~~SEC. 3. (a) The board shall enforce the civil service statutes~~
34 ~~and, by majority vote of all its members, shall prescribe~~
35 ~~probationary periods and classifications, adopt other rules~~
36 ~~authorized by statute, and review disciplinary actions.~~

37 ~~(b) The executive officer shall administer the civil service~~
38 ~~statutes under rules of the board.~~

39 Fifth—That Section 3 is added to Article VII thereof, to read:

1 SEC. 3. (a) Civil service statutes shall be enforced by a
2 personnel agency under the authority of the Governor. This agency
3 shall prescribe classifications, adopt other rules authorized by
4 statute, and review disciplinary actions.

5 (b) (1) The personnel agency shall create and submit to the
6 Legislature a comprehensive plan for the state workforce in order
7 to provide for the efficient and cost-effective delivery of state
8 services and for the future workforce needs of the State. This plan
9 shall include, but not be limited to, provisions related to unified
10 management, coordinated infrastructure, productive bargaining,
11 flexible classification, coordinated recruiting, supportive training,
12 and a fair, efficient, timely, and cost-effective disciplinary process.
13 The plan shall be implemented administratively by the agency
14 unless, within 60 calendar days after it is received by the
15 Legislature, it is expressly rejected by resolution adopted by either
16 house, a majority of the membership concurring; provided that if
17 the 60-day period ends during a recess of the Legislature, the period
18 shall be extended until the sixth day following the day on which
19 the Legislature reconvenes.

20 (2) After the comprehensive plan has been created and
21 implemented by the personnel agency, the Office of Economic
22 Growth shall annually review the plan and shall submit to the
23 Legislature any recommended revisions to the plan. Any revisions
24 to the plan recommended by the office shall be implemented
25 administratively by the personnel agency unless they are expressly
26 rejected by the Legislature within the time period and in the manner
27 described in paragraph (1).

28 Sixth—That this measure shall be self-executing. The
29 Legislature may enact one or more statutes to facilitate the
30 implementation of this measure, if each statute is consistent with,
31 and furthers the purpose of, this measure and is passed in each
32 house by rollcall vote entered in the journal, two-thirds of the
33 membership concurring.